SBCivil Writ Petition No.5108/2006

Pritam Singh

Vs.

The Rent Tribunal, Jodhpur & Ors.

Date of Order :: 27th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. M.C.Bhoot, for the petitioner.
Mr. M.S.Singhvi]
Mr. Arvind Samdaria] for the respondents.

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In a petition for eviction from rented premises preferred by the respondent No.2 under the Rajasthan Rent Control Act, 2001 (hereinafter referred to as “the Act of 2001”) the petitioner preferred an application seeking amendment in written statement on the count that the respondent No.2 in an another suit claiming mesne profit made a statement that the petitioner is not a tenant but a trespasser in a part premises, therefore, a suitable amendment is required to be made in view of the statement aforesaid. The application preferred for amendment of the written statement was rejected by learned Rent Tribunal under an order dated 3.8.2006 by holding that Section 21 of the Act of 2001 does not permit such amendment and also that if permission is granted for amendment as sought then the same shall cause unnecessary delay in adjudication of main petition.

An another application was filed by the petitioner seeking permission to place on record a copy of statement given by the respondent No.2 in the suit claiming mesne profit. The application aforesaid also came to be rejected by the order dated 30.8.2006, hence this petition for writ is preferred.

It is contended by counsel for the petitioner while giving challenge to the orders aforesaid that for the same premises a suit claiming mesne profit is pending before the court of learned Additional District Judge (Fast Track) No.3, Jodhpur wherein a statement is given by the respondent No.2 that the petitioner is not a tenant in part of premises that was earlier given on rent to Intelligence Bureau of Government of India, as such according to counsel for the petitioner the respondent No.2 has admitted that the petitioner is not a tenant, as such the petition under the Act of 2001 is not maintainable. The petitioner has sought the amendment only to raise this ground and that goes to the route of the matter, therefore, the Rent Tribunal erred while rejecting the application for amendment. It is further contended by counsel for the petitioner that the Rent Tribunal also erred while rejecting the application for taking on record the statement of the respondent No.2 given in the suit pertaining to mesne profit. It is urged that under the Act of 2001 the Tribunal is not bound by the

procedure laid down by Civil Procedure Code, 1908 but is guided by principles of natural justice and subject to other provisions of the Act or the Rules framed thereunder, the Tribunal, therefore, must make all best efforts to give best possible opportunity to the parties to the petition while adjudicating an issue.

Per contra, it is stated by counsel for the respondents that the petitioner by one or other means want to delay the proceedings initiated for eviction from rented premises. It is pointed out by counsel for the respondent No.2 that whatever amendments petitioner want to introduce are already part of the proceedings as the petitioner himself in para 9(₹) of the written statement has taken the ground with regard to maintainability of the petition. It is further stated that before the Tribunal the evidence has already been closed and now the matter is fixed for final hearing, therefore, it shall not be desirable to permit the petitioner to place on record any document as that will unnecessarily prolong the proceedings.

Heard counsel for the parties.

By order dated 3.8.2006 learned Tribunal rejected the application for amendment in written statement. From perusal of the written statement submitted by the petitioner it is apparent that an objection with regard to maintainability of the

petition on the ground that he is not a tenant in part of the premises, has already been taken. As such, this fact was in knowledge of the petitioner from inception and a ground is already taken in this regard, the Tribunal, has not committed any error while rejecting the application seeking amendment.

So far as the order dated 30.8.2006 is concerned, I am of the view that under Section 21 of the Act of 2001 the endeavour of the Rent Tribunal should be to provide all possible opportunity to the parties to the dispute to pursue their claim, however, it should be with a caution that parties may not abuse the process of Court to unnecessarily prolong the proceedings.

In the instant matter the petitioner sought permission to produce a certified copy of the statement given by the respondent No.2 himself in an another suit between the same parties. The suit in which the statements of the respondent No.2 are recorded pertains to recovery of mesne profit for the premises that is subject matter of the petition pending before the Rent Tribunal. Such statement is certainly relevant in adjudication of present controversy. Under Section 21 of the Act of 2001 ample power is given to the Tribunal to adopt its own procedure while adjudicating a petition. The Tribunal, therefore, is empowered to look into and consider the

document concerned, even without opening the evidence afresh.

In view of whatever discussed above, the Rent Tribunal is directed to take on record the certified copy of the statement of the respondent No.2 that is presented by the petitioner alongwith the application concerned. It shall be open for the respondent No.2 to explain the statement given by him. The Rent Tribunal while deciding the petition shall take into consideration and examine the effect of the statements of the respondent No.2 taken on record. The Rent Tribunal shall decide the main petition expeditiously as far as possible within a period of three months from today.

The writ petition is disposed of accordingly.

(GOVIND MATHUR),J.

kkm/ps.